



December 5, 2003

Highlights of the Conference Report to Accompany H.R. 2673, the Fiscal Year 2004 Omnibus Appropriations Act

The Conference Report, H. Rept. 108-401, was filed on November 25, 2003.

Noteworthy

- H.R. 2673, the Agriculture Appropriations bill, is the legislative vehicle for the FY04 Omnibus Appropriations bill.
- The Conference Report includes \$328.1 billion in discretionary funding for the following seven appropriations bills that are yet to be signed into law: Agriculture, Commerce-Justice-State-Judiciary, District of Columbia, Foreign Operations, Labor-HHS-Education, Transportation-Treasury, and Veterans Affairs-HUD. This level holds FY04 spending within the \$786-billion cap on discretionary funding that was agreed to by President Bush and congressional appropriators.
- Except for the FY04 Defense and Military Construction Appropriations bills, the Conference Report includes an across-the-board cut of 0.59 percent for every appropriations bill, including those already enacted (i.e., Energy and Water, Homeland Security, Interior, and Legislative Branch).
- The Conference Report rescinds \$1.8 billion in unspent funds from the FY01 Emergency Supplemental Appropriations bill (P.L. 107-38) and the FY02 Defense Appropriations bill (P.L. 107-117). This rescission and the across-the-board reductions ensure that the \$786-billion cap is not exceeded.

Highlights

Major components of H.R. 2673

<u>BILL</u>	<u>BUDGET AUTHORITY</u>	<u>DISCRETIONARY SPENDING</u>
Agriculture	\$80.6 billion	\$16.9 billion
CJS	\$37.8 billion	\$37.8 billion
District of Columbia	\$545 million	\$545 million
Foreign Operations	\$17.2 billion	\$17.2 billion
Labor, HHS, and Education	\$471.8 billion	\$139.8 billion
Transportation, Treasury	\$89.8 billion	\$27.5 billion
Veterans Affairs, HUD	\$128.2 billion	\$91.3 billion
TOTAL	\$825.9 billion	\$328.1 billion¹

Agriculture (S. 1427/H.R. 2673)

The House passed H.R. 2673 on July 14, 2003; the Senate passed S. 1427 on November 6, 2003. Senate conferees were named, but an Agriculture Appropriations conference did not occur. This bill serves as the legislative vehicle for the FY04 Omnibus Appropriations bill.

The Conference Report provides \$80.6 billion in budget authority for the FY04 Agriculture Appropriations bill, of which \$16.94 billion is discretionary funding.

Title I – Agricultural Programs

- The Conference Report provides \$26.82 billion for agricultural programs.
- The Senate-passed bill included \$26.77 billion for agricultural programs.

Title II – Conservation Programs

- The Conference Report provides \$1.03 billion for conservation programs.
- The Senate-passed bill included \$973.2 million for conservation programs.

Title III – Rural Development Programs

- The Conference Report provides \$2.46 billion for rural development programs.
- The Senate-passed bill included \$2.59 billion for rural development programs.

Title IV – Domestic Food Programs

- The Conference Report provides \$47.29 billion for domestic food programs.
- The Senate-passed bill included \$46.29 billion for domestic food programs.

¹ This figure adds up to \$331.045 billion, but calculates to \$328.1 billion when the 0.59 percent across-the-board cut and the rescinded funds discussed above are included.

Title V – Foreign Assistance Programs

- The Conference Report provides \$1.51 billion for foreign assistance programs.
- The Senate-passed bill included \$1.48 billion for foreign assistance programs.

Title VI – Food and Drug Administration (FDA) and Related Agencies

- The Conference Report provides \$1.48 billion for the FDA and related agencies.
- The Senate-passed bill included \$1.48 billion for the FDA and related agencies.

Presidential Veto Threat:

Section 760 of the Senate-passed bill weakens existing sanctions against the Cuban government by allowing travel to and from Cuba for commercial sales of agricultural and medical goods. The President, in a Statement of Administration Policy dated November 5, 2003, threatened to veto S.1427 if it included this provision. **This provision is not contained in the Conference Report.**

Other Significant Issues:

1) The Administration strongly opposes any provision regarding the importation of prescription drugs. While the Senate bill did not include such a provision, Section 749 of the House bill did include an importation provision. **This provision is not contained in the Conference Report.**

2) Section 743 of the House bill placed a funding limitation on FY04 funds being used to implement Country of Origin Labeling (COOL) for meat products. While the Administration supports this House funding limitation, the Senate bill included “sense of the Senate” language that insists that no such funding limitation be included. **The Conference Report contains a two-year funding limitation on funds being used for COOL.**

Commerce, Justice, State, Judiciary (S. 1585/H.R. 2799)

The House passed H.R. 2799 on July 23, 2003; the Senate Appropriations Committee reported S. 1585 on September 5, 2003, and the Senate began consideration of the bill on November 10, 2003, but it did not complete floor consideration of S. 1585.

The Conference Report provides \$37.8 billion in budget authority for the FY04 Commerce, Justice, State, Judiciary Appropriations bill, all of which is discretionary funding.

Title I – Department of Justice

- The Conference Report provides \$19.7 billion for the Department of Justice.
- The Senate-reported bill included \$18.6 billion for the Department of Justice.

Title II – Department of Commerce

- The Conference Report provides \$6.0 billion for the Department of Commerce.
- The Senate-reported bill included \$6.3 billion for the Department of Commerce.

Title III – The Judiciary

- The Conference Report provides \$4.86 billion for the Judiciary.
- The Senate-reported bill included \$5.07 billion for the Judiciary.

Title IV – Department of State

- The Conference Report provides \$8.13 billion for the Department of State
- The Senate-reported bill included \$8.03 billion for the Department of State.

Title V – Related Agencies

- **Federal Communications Commission (FCC)**
The Conference Report provides \$273.9 million for the FCC.
The Senate-reported bill included \$277.8 million for the FCC.
- **Federal Trade Commission (FTC)**
The Conference Report provides \$186.0 million for the FTC.
The Senate-reported bill included \$189.0 million for the FTC.
- **Securities and Exchange Commission (SEC)**
The Conference Report provides \$811.0 million for the SEC.
The Senate-reported bill included \$841.5 million for the SEC.
- **Small Business Administration (SBA)**
The Conference Report provides \$718.3 million for the SBA.
The Senate-reported bill included \$751.7 million for the SBA.

Presidential Veto Threat:

Section 108 of the Senate bill restricts the ability of the Office of Justice Programs from initiating competitive sourcing in its management and delivery of various services. Specifically, this section states that in FY04 and FY05, the provisions of OMB's Circular A-76 and any similar provisions in any other order or directive shall not apply to any grants-monitoring, program-monitoring, or statistical activities conducted by the Office of Justice Programs unless an Act of Congress approves such provisions. The President, in a Statement of Administration Policy dated November 10, 2003, threatened to veto S. 1585 if it included this provision. **This provision is not contained in the Conference Report.**

Section 412 of the Senate bill prohibits the Secretary of State from carrying out the President's directive of August 29, 2003² that protects unborn children in the granting of U.S. foreign aid for voluntary population planning. The President, in a Statement of Administration Policy dated November 10, 2003, threatened to veto S. 1585 if it included this provision. **This provision is not contained in the Conference Report.**

Section 624 of the Senate bill blocks the Federal Communications Commission from increasing its national television ownership limit. Specifically, no funding is permitted for any broadcast license transfer that would result in one television network being able to reach more than 35 percent of the national audience. The President, in a Statement of Administration Policy dated November 10, 2003, threatened to veto S. 1585 if it included this provision. **The Conference Report includes a compromise provision that permanently allows a single television network to reach up to 39 percent of the national audience.**

Other Significant Issues:

- 1) Section 626 of the Senate bill restricted the FCC's ability to assign, via competitive bidding, spectrum licenses that could be used by non-satellite services. The Administration strongly opposes this provision. **This language, known as the Northpoint language, is not contained in the Conference Report.**
- 2) Title IX of the Senate bill authorizes several fisheries provisions. In an attempt to reduce fatal fishing accidents, a crab processor quota system was included. This title also delegates part of the Aleutian Islands Pollock fishery to the Adak community. Additionally, the title includes a quota system for Gulf of Alaska Rockfish. **These provisions are contained in the Conference Report.**

District of Columbia (S. 1583/H.R. 2765)

The House passed H.R. 2765 on September 9, 2003; the Senate passed S. 1583 on November 18, 2003. Senate conferees were named, but a District of Columbia Appropriations conference did not occur.

The Conference Report provides \$545 million in budget authority for the FY04 District of Columbia Appropriations bill, all of which is discretionary funding.

Presidential Veto Threats: No veto threats were issued against this bill.

² The directive concerning family planning grants dispensed by the State Department was issued to the Secretary of State. The directive requested that the conditions for population control funding outlined in the "Mexico City Policy" be published in the *Federal Register*, so that the policy is codified. The "Mexico City Policy" announced by President Reagan in 1984 requires nongovernmental organizations to agree as a condition of their receipt of federal funds that such organizations would neither perform nor actively promote abortion as a method of family planning in other nations. In January 1993, President Clinton rescinded the policy. On January 22, 2001, President Bush reinstated the policy.

Other Significant Issue:

Funding for the School Choice Incentive Fund was included in both the Senate and the House D.C. Appropriations bills. The Senate bill, as reported, included \$13 million and the House bill included \$10 million for this fund. This funding will provide low-income parents with more options for obtaining a quality education for their children who are trapped in low-performing schools. **The Conference Report includes the Senate's \$13-million D.C. school voucher provision**

Foreign Operations (S. 1426/H.R. 2800)

The House passed H.R. 2800 on July 23, 2003; the Senate passed S. 1426 on October 30, 2003. A conference report agreement was reached on November 17, 2003, but the conference report was not filed.

The Conference Report provides \$17.2 billion in budget authority for the FY04 Foreign Operations Appropriations bill, all of which is discretionary funding.

Title I – Export and Investment Assistance

- The Conference Report provides \$117.7 million for export and investment assistance.
- The Senate-passed bill included \$115.0 million for export and investment assistance.

Title II – Bilateral Economic Assistance

- The Conference Report provides \$11.50 billion for bilateral economic assistance.
- The Senate-passed bill included \$12.24 billion for bilateral economic assistance.

Title III – Military Assistance

- The Conference Report provides \$4.46 billion for military assistance.
- The Senate-passed bill included \$4.56 billion for military assistance.

Title IV – Multilateral Economic Assistance

- The Conference Report provides \$1.71 billion for multilateral economic assistance.
- The Senate-passed bill included \$1.63 billion for multilateral economic assistance.

Presidential Veto Threat:

Section 691 of the Senate bill effectively overturned the Administration's international family planning policy, commonly referred to as the "Mexico City Policy"³ and allows U.S. taxpayer funds to be provided to international organizations that perform abortions and engage in abortion advocacy. The President, in a Statement of Administration Policy dated October 24, 2003, threatened to veto S. 1426 if it included this provision. **The Conference Report does not contain this provision.**

³ See footnote 1.

Other Significant Issues:

1) A \$289-million disparity existed between the House and Senate funding for the President's Global AIDS Initiative. The disparity stems from S.AMDT. 1966 to H.R. 2800, the DeWine Amendment, which added \$289 million to fight AIDS, with the funding to be provided from unspent FY03 defense dollars. The amendment passed by a vote of 89-1. **The Conference Report exceeds the President's request by providing \$1.646 billion in AIDS funding in the Foreign Operations division of the bill; that combined with the \$754 million included in the Labor-HHS division of the bill provide for a total of \$2.4 billion for AIDS funding.**

2) Although the President requested \$1.3 billion in funding for the Millennium Challenge Account⁴, the House and Senate provided \$800 million and \$1 billion respectively. The Foreign Operations conference agreement included \$650 million, but a conference report was not filed. **The Conference Report includes \$1 billion for the Millennium Challenge Account.**

Labor, Health and Human Services, and Education **(S. 1356/H.R. 2660)**

The House passed H.R. 2660 on July 10, 2003; the Senate passed S. 1356 on September 10, 2003. Senate conferees were named, but a Labor-HHS Appropriations conference did not occur.

The Conference Report provides \$471.8 billion in budget authority for the FY04 Labor, Health and Human Services, and Education Appropriations bill, of which \$139.8 is discretionary funding.

Title I – Department of Labor

- The Conference Report provides \$11.8 billion for the Department of Labor.
- The Senate-passed bill included \$11.8 billion for the Department of Labor.

Title II – Department of Health and Human Services

- The Conference Report provides \$62.1 billion for the Department of Health and Human Services.
- The Senate-passed bill included \$61.3 billion for the Department of Health and Human Services.

Title III – Department of Education

- The Conference Report provides \$56.0 billion for the Department of Education.
- The Senate-passed bill included \$55.8 billion for the Department of Education.

⁴ S. 1426 contained the Millennium Challenge Account in its own title, but the Conference Report includes the MCA in Title II of Division D-Foreign Operations.

Presidential Veto Threat:

S.AMDT. 1580 to H.R. 2660, the Harkin Amendment, which would prohibit a Department of Labor regulatory change that is designed to provide overtime pay to 1.3 million additional low-wage workers by simplifying eligibility tests and raising salary thresholds, passed during floor consideration. The President, in a Statement of Administration Policy dated September 2, 2003, threatened to veto the bill if it included this provision. H.AMDT. 220 to H.R. 2660, the Obey Amendment, was similar, and it failed, 210-213. On October 3, 2003, however, by a vote of 221-203, the House, in a non-binding motion, instructed its conferees to accept the Senate language. **The Senate language is not contained in the Conference Report.**

Transportation, Treasury and Independent Agencies **(S. 1589/H.R. 2989)**

The House passed H.R. 2989 on September 9, 2003; the Senate passed the text of S. 1589 as H.R. 2989 on October 23, 2003. A conference report agreement was reached on November 12, 2003, but the conference report was not filed.

The Conference Report provides \$89.8 billion in budget authority for the FY04 Transportation, Treasury and Independent Agencies Appropriations bills, of which \$27.5 billion is discretionary funding.

Title I – Department of Transportation

- The Conference Report provides \$58.8 billion for the Department of Transportation.
- The Senate-passed bill included \$59.1 billion for the Department of Transportation.

Title II – Department of Treasury

- The Conference Report provides \$11.16 billion for the Department of the Treasury.
- The Senate-passed bill included \$11.19 billion for the Department of the Treasury.

Title III – Executive Office of the President

- The Conference Report provides \$786.6 million for the Executive Office of the President.
- The Senate-passed bill included \$735.3 million for the Executive Office of the President.

Title IV – Independent Agencies

- The Conference Report provides \$19.35 for independent agencies.
- The Senate-passed bill included \$20.28 billion for independent agencies.

Presidential Veto Threat:

The Senate bill excluded a current-law provision that prohibits (with exceptions) the use of federal funds for abortions in the Federal Employees Health Benefits Program; the

current-law exceptions are for cases in which the life of the mother is endangered or the pregnancy is the result of rape or incest. The President, in a Statement of Administration Policy dated October 23, 2003, threatened to veto S. 1589 if the current-law provision was not included. **The current-law provision is contained in the Conference Report.**

S.AMDT. 1900 to H.R. 2989, the Dorgan Amendment, which prohibits the use of funds to enforce travel restrictions to Cuba, was passed during floor consideration. The President, in a Statement of Administration Policy dated October 23, 2003, threatened to veto the bill if it included this provision. **This provision is not contained in the Conference Report.**

H.AMDT. 379 to H.R. 2989, the Van Hollen Amendment, which blocks the Administration's plan to increase outsourcing of federal work by prohibiting the use of funds in the bill to enforce new federal outsourcing rules, was passed in the House during floor consideration. The President, in a Statement of Administration Policy dated October 23, 2003, threatened to veto the bill if it included this provision. Notably, the Transportation-Treasury Conference Report includes a compromise on this issue that requires private contractors to show either a 10-percent cost-benefit ratio or a \$10 million savings. **The Conference Report includes a compromise provision that eliminates both the requirement that the Administration must prove a cost savings exists and the establishment of an appeal procedure for employees losing outsourcing competitions.**

Other Significant Issues:

- 1) **The Conference Report included \$1.23 billion for Amtrak**, which is a compromise between the \$1.35 billion Senate-passed figure and the \$900 million House-passed figure. Of the \$1.23 billion, \$60 million will be withheld until the fourth quarter of the fiscal year as a precaution against the possibility of an Amtrak bankruptcy.
- 2) **The Conference Report placed a funding limitation on FY04 funds being used to implement cash balance rules.** Additionally, within 180 days of enactment, the Treasury Department is required to submit a cash balance legislative proposal to Congress.

Veterans, Housing & Urban Development **(S. 1584/H.R. 2861)**

The House passed H.R. 2861 on July 25, 2003; the Senate passed S. 1584 on November 18, 2003. Senate conferees were named, but a VA-HUD Appropriations conference did not occur.

The Conference Report provides \$128.2 billion in budget authority for the FY04 Veterans, Housing and Urban Development Appropriations bill, of which \$91.3 billion is discretionary funding.

Title I – Department of Veterans Affairs

- The Conference Report provides \$28.6 billion for the Department of Veterans Affairs.
- The Senate-passed bill included \$29.3 billion for the Department of Veterans Affairs.

Title II – Department of Housing and Urban Development

- The Conference Report provides \$37.0 billion for the Department of Housing and Urban Development.
- The Senate-passed bill included \$36.08 billion for the Department of Housing and Urban Affairs.

Title III – Independent Agencies

- **Corporation for National and Community Service (CNCS)**
The Conference Report provides \$584 million for the CNCS.
The Senate-passed bill included \$484 million for the CNCS.
- **Environmental Protection Agency (EPA)**
The Conference Report provides \$8.41 billion for the EPA.
The Senate-passed bill included \$8.18 billion for the EPA.
- **National Aeronautics and Space Administration (NASA)**
The Conference Report provides \$15.5 billion for the NASA.
The Senate-passed bill included \$15.3 billion for NASA.
- **National Science Foundation (NSF)**
The Conference Report provides \$5.6 billion for the NSF.
The Senate-passed bill included \$5.59 billion for the NSF.

Presidential Veto Threats: No veto threats were issued against this bill.

Other Significant Issues:

1) The Administration objects to the \$1.3 billion in funding provided for annual veterans medical care funding in the Senate-passed bill, unless an offset is found. **This funding is included in the Conference Report, and an offset, as discussed above, was derived from a 0.59-percent across-the-board cut and the rescission of previously unspent dollars.**

2) During floor consideration, S.AMDT. 2156 to H.R. 2861, the Bond Amendment, was adopted by voice vote. Senator Bond's amendment directs the Environmental Protection Agency to propose regulations containing new standards applicable to emissions from new nonroad spark-ignition engines smaller than 50 horsepower and preempts state regulation of such engines. **This provision is not contained in the Conference Report. Compromise language, however, was included that will allow California to move forward with its regulation, but will preempt other states' regulation.**

Note:

Three issues bear significant responsibility for increasing the FY04 Senate Appropriations bills' discretionary spending levels. These issues include: 1) International AIDS funding, 2) Veterans health care, and 3) Election reform.

AIDS Funding: The Foreign Operations Appropriations Conference Report, which was not filed, included \$1.65 billion. The Senate-passed Labor HHS Appropriations bill included \$678.3 million. **The Conference Report provides a total of \$2.4 billion for HIV/AIDS programs.**

Veterans Health Care: The Senate VA-HUD bill included \$26.79 billion for veterans health care. This figure represents an increase of \$2.87 billion over the FY03 enacted level and it continues a trend of increasing funds annually as the program continues to serve a larger number of veterans each year. **The Conference Report provides \$28.6 billion for veterans health care.**

Election Reform: The enactment of the Help America Vote Act⁵ in October 2002, created additional pressures to appropriate dollars for election reform. During floor consideration of the Senate Transportation-Treasury Appropriations bill, an amendment offered by Senators Dodd and McConnell to include \$1.5 billion for grants to assist state and local efforts to improve technology and the administration of Federal elections was accepted by voice vote. The Treasury-Transportation Conference Report included \$500 million for election reform. **The Conference Report provides \$1 billion for election reform.**

⁵ HAVA authorized \$3.86 billion in funding for programs to replace equipment, improve election administration, improve accessibility, recruit poll workers, and perform research and pilot studies.